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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
 10/677,954	10/01/2003	John A. Scott	12635-3	9267
23676 SHELDON M.	7590 06/06/200 AKROSE & ANDERS	John A. Scott  12635-3  EXAMON PC  JOHNSON,  ART UNIT  1754  MAIL DATE	IINER	
SHELDON MAK ROSE & ANDERSON PC  100 East Corson Street			JOHNSON, EDWARD M	
Third Floor PASADENA. (	CA 91103-3842		ART UNIT	PAPER NUMBER
,				
			MAIL DATE	DELIVERY MODE
			06/06/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

		Application No.	Applicant(s)			
	Office Action Commence	10/677,954	SCOTT ET AL.			
	Office Action Summary	Examiner	Art Unit			
		Edward M. Johnson	1754			
Period fo	The MAILING DATE of this communication app or Reply	pears on the cover sheet with the c	orrespondence address			
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.  - Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).						
Status						
1)	Responsive to communication(s) filed on 22 Ja	anuary 2007.				
2a) <u></u>		action is non-final.				
•	Since this application is in condition for allowar		secution as to the merits is			
	closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.					
Disposition of Claims						
4)🖂	4)⊠ Claim(s) <u>1-29</u> is/are pending in the application.					
	4a) Of the above claim(s) is/are withdrawn from consideration.					
	5) Claim(s) is/are allowed.					
	S)⊠ Claim(s) <u>1-29</u> is/are rejected.					
	Claim(s) is/are objected to.					
8)	8) Claim(s) are subject to restriction and/or election requirement.					
Applicati	ion Papers					
9) The specification is objected to by the Examiner.						
	10) ☐ The drawing(s) filed on is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.					
,	Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).					
	Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).					
11)	11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.					
Priority u	ınder 35 U.S.C. § 119					
12)	12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).					
a)[	a) All b) Some * c) None of:					
	1. Certified copies of the priority documents have been received.					
	2. Certified copies of the priority documents have been received in Application No					
	3. Copies of the certified copies of the priority documents have been received in this National Stage					
	application from the International Bureau (PCT Rule 17.2(a)).					
* See the attached detailed Office action for a list of the certified copies not received.						
Attachment						
	e of References Cited (PTO-892) e of Draftsperson's Patent Drawing Review (PTO-948)	4) Interview Summary ( Paper No(s)/Mail Date	,			
	nation Disclosure Statement(s) (PTO/SB/08)	5) Notice of Informal Pa				
	r No(s)/Mail Date	6) Other:				

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## DETAILED ACTION

## Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., In re Berg, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); In re Goodman, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); In re Longi, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); In re Van Ornum, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); In re Vogel, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and In re Thorington, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1-29 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-29 of U.S. Patent No. 6,462,249. Although the conflicting claims are not identical, they are not patentably distinct from each other because it would have been obvious to one of ordinary skill in the art at the time the invention was made to claim the initial step of contacting and subsequent step

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of catalytically treating, with or without the prior step of increasing pH and/or mixing in the previously patented processes for low temperature non-incineration decontamination of contaminated metals.

3. Claims 1-29 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-29 of U.S. Patent No. 6,660,900. Although the conflicting claims are not identical, they are not patentably distinct from each other because it would have been obvious to one of ordinary skill in the art at the time the invention was made to claim the initial step of contacting and subsequent step of catalytically treating, with or without the prior step of increasing pH and/or mixing in the previously patented processes for low temperature non-incineration decontamination of contaminated metals.

## Conclusion

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Edward M. Johnson whose telephone number is 571-272-1352. The examiner can normally be reached on M-F 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stanley S. Silverman can be reached on 571-272-1358. The fax phone number for the

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organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Edward M. Johnson Primary Examiner Art Unit 1754

**EMJ**